

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1156 of 2020

1. Prabhu Dayal Sahni @ Prabhu Doyal Sahani (Male) aged about 50 years, son of Late Dashrath Sahani, resident of village and P.O.- Satish Nagar, P.S.- Pasraha, Distt- Khagaria.
2. Parbatta Thana Matsyajivi Sahyog Samiti Ltd. Korchakka (Satish Nagar) through its Secretary Prabhu Dayal Sahni @ Prabhu Doyal Sahani (Male) aged about 50 years son of Late Dashrath Sahani, resident of village and P.O.- Satish Nagar, P.S.- Pasraha, Distt.- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fish Resource Department, Bihar, Patna.
2. The Director Fisheries, Bihar, Patna.
3. The Reserve Jama Fixation Committee through its Chairman-cum-Deputy Director, Fisheries, Bhagalpur Division, Bhagalpur.
4. The District Fisheries Officer-cum-Chief Executive Officer, Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Nibash Prasad with Mr. Mukesh Kumar, Advocates
For the State	:	Mr. Abhay Kumar Kashyap, AC to GP 18

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 18-01-2020

Learned counsel for the petitioners and learned AC to GP 18 for the State have assisted the Court.

2. Learned counsel for the petitioners submitted that the defect with regard to non-service of copy of the application on respondent no. 3 be ignored as there is no retained counsel for the same in the High Court. In view thereof, the same stands ignored.



3. He further submitted that permission be granted for making correction in the description of the respondent no. 3. Let the same be done during the course of the day.

4. With regard to the defect for payment of additional Court fee and welfare stamp on the *vakalatnama*, the same also stands ignored.

5. With consent of learned counsel for the parties, the matter has been heard on merits for the purpose of its disposal.

6. The petitioners have moved the Court for the following reliefs:

“ I. That an appropriate writ may be issued quashing the Report sent by the District Fisheries Officer, the Respondent NO-4 by Letter No. 416 dated -01.07.2019 as contained in Annexure-7 communicating the Respondent No-2 the Director Fisheries Bihar, Patna, the reserve jama fixed for different jalkars situated within different block of Khagaria District to the extent of Parbatta Block by which the reserve jama has been enhanced by the District Fisheries Officer 91.62% than the reserve jama fixed for the last year.

II. That an appropriate writ may be issued commanding upon the Respondent No-3 the Reserve jama Fixation Committee to re-fix the reserve jama of the jalkars of Parbatta Block in the District of Khagaria in accordance with the provision of proviso of sub-section (iii) of Section -4 of the Bihar Fish Jalkar Management Act, 2006 as amended in the year 2007, 2010 and 2019.

III. That an appropriate writ may be issued commanding upon the Respondent No-3 the Reserve Jama Fixation Committee to fixed the revenue on the basis of the annual production capacity of jalkars as contemplated



under section -4 of the Bihar Fish Jalkar Management Act, 2006 as amended in the year 2007, 2010, and 2019.

IV. That an appropriate writ may be issued commanding upon the Respondent No-4 the District Fisheries Officer, Khagaria to make necessary classification of the jalkars situated within Parbatta Block on the basis of water shed area and production capacity of jalkars and to classify all the jalkars as contemplated under section -3 (ii) of the Bihar Fish Jalkar Management Act, 2006 as amended in the year 2007, 2010, and 2019.

V. Any other relief/reliefs for which the petitioners are entitled too.”

7. The basic issue raised in the writ application is that the reserve *jama* having been enhanced by 91.62% is unreasonable and further the procedure required to be followed before fixing reserve *jama* has not been adhered to by the authorities.

8. Learned counsel for the State submitted that the matter has to be gone into only on the factual aspect without there being any law involved for the present, as the calculation and fixing of reserve *jama* is substantively based on ground realities, which the authorities have to look into.

9. Faced with the situation, learned counsel for the petitioners submitted that the application be disposed off with liberty to the petitioners to pursue the matter departmentally before the Director, Fisheries, Bihar, Patna.

10. Having regard to the aforesaid, the writ petition stands disposed off with liberty aforesaid.



11. It goes without saying that if the petitioners pursue the matter before the Director, Fisheries, he shall be obliged to look into the matter and consider all points raised by the petitioners, both on facts and law and pass a reasoned order, within two months from the date of production of a copy of this order before him, in accordance with law. Further, the petitioners shall be at liberty to file further representation while serving copy of this order before him to supplement the previous objection raised by them.

12. Whatever payment the petitioners shall be making in terms of the impugned order shall not prejudice their cause and would ultimately be subject to the order passed by the Director, Fisheries.

(Ahsanuddin Amanullah, J)

Anjani/-

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